

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN DOE 1, et al.,

Plaintiffs,

v.

Case No. 13-14356

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

**ORDER ESTABLISHING DISCOVERY PERIOD AND BRIEFING SCHEDULE
ADDRESSING EXHAUSTION AS TO JOHN DOES 8-12**

This proposed class action was filed on October 15, 2013 on behalf of Does 1-7. On May 13, 2015, Plaintiffs filed “Motion for Leave to File First Amended Complaint” seeking to add five new John Doe Plaintiffs, John Does 8-12 (Dkt. #132). On March 11, 2016, the court issued an Order (1) granting Plaintiffs’ Motion to Amend the Complaint (2) Terminating as moot Plaintiffs’ Motion for Leave to File Additional Exhibits and Defendants’ Motion to Hold the Motion to Amend in Abeyance; and (3) directing the parties to submit a proposed Scheduling Order. (Dkt. #162). The Order also directed the parties to jointly submit a proposed Scheduling Order no later than March 18, 2016, establishing a discovery period and briefing schedule addressing the exhaustion issue as it pertains to John Does 8-12. The court has considered the Joint Proposed Scheduling Order and largely adopted it, with some adjustments.

Accordingly IT IS ORDERED that:

- (1) By **April 1, 2016**, the parties will exchange written discovery via email service;
- (2) By **April 29, 2016**, the parties will submit by email service their responses and answers to the initial written discovery served upon them;
- (3) By **May 6, 2015**, the parties will meet and confer to determine whether any party needs additional discovery related to Defendants' affirmative exhaustion defense as to John Does 8-12;
- (4) On **May 9, 2016 at 11:00 a.m.**, the court will hold a Telephonic Status Conference so that the parties can update the court on the status of discovery and seek the court's input as to the potential need for additional written or deposition discovery;
- (5) If the parties request additional discovery at that time, the court *may consider* highly targeted additional discovery. The court does not, however, anticipate allowing discovery to continue later than May 23, 2016. Defendants will have twenty-eight (28) days after the close of discovery during which to submit a Motion for Summary Judgment on the basis of Plaintiffs' failure to exhaust administrative remedies, if they so choose;
- (6) If Defendants' file a Motion for Summary Judgment on the basis of any John Does 8-12's alleged failure to exhaust administrative remedies, Plaintiffs will have twenty-one (21) days in which to file a responsive brief, and Defendants will have fourteen (14) days in which to file a reply;
- (7) The evidentiary hearing set by the court on April 26, 2016, for John Doe 3, will be held in abeyance until after the conclusion of discovery for John Does 8-12, or, if

Defendants file a Motion for Summary Judgment on the basis of John Doe 8-12's failure to exhaust administrative remedies, after the court rules on Defendants' motion.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 25, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 25, 2016, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522